



CITY OF INGLEWOOD

OFFICE OF THE CITY MANAGER



DATE: September 30, 2015

TO: Oversight Board to the City of Inglewood as Successor Agency

FROM: City of Inglewood as Successor Agency

SUBJECT: Resolution Approving the Locust Street Senior Center Conditional Bond Funding Agreement for the use of Certain Bond Proceeds to Construct the Senior Center to be Located on 111 North Locust Street

RECOMMENDATION:

It is recommended that the Oversight Board of the City of Inglewood adopt a Resolution to Authorize the Successor Agency to execute the Locust Street Senior Center Conditional Bond Funding Agreement ("Funding Agreement") for the use of Certain Bond Proceeds to Construct the Senior Center to be Located on 111 North Locust Street.

BACKGROUND:

As of February 1, 2012, all California redevelopment agencies were officially dissolved when the State of California enacted Assembly Bill 26 (AB 26). The City of Inglewood as Successor Agency to the former Inglewood Redevelopment Agency ("Successor Agency") is now tasked with winding down the affairs of the former Inglewood Redevelopment Agency (Former Agency), including implementing the administrative activities required by AB 26.

On December 16, 2014, the City Council/Successor Agency Board approved a Design-Build agreement ("Agreement") with Pinner Construction Co., Inc. ("Contractor") as the lowest qualified bidder to serve as the Design-Build Entity to provide design as well as construction services for the new Senior Center public improvement to be located at 111 N. Locust Street ("Project").

On December 29, 2014, the Successor Agency received its finding of completion from the California Department of Finance and, pursuant to California Health & Safety Code section 34191.4(c). Subsequently, the Successor Agency placed on its Recognized Obligation Payment Schedule ("ROPS") for the 15-16A period, a request to expend Twenty Million Dollars (\$20,000,000) of tax-exempt bond proceeds for certain public improvements purposes as more particularly set forth in the Series 2007A-1 bond issuance of the former Inglewood Redevelopment Agency (the "Bond Proceeds").

On September 22, 2015, the City Council/Successor Agency Board approved the Locust Street Senior Center Conditional Bond Funding Agreement between the City of Inglewood, the City of Inglewood as Successor Agency of the former Inglewood Redevelopment Agency, and Pinner Construction Co., Inc. for the ROPS 15-16B period.

DISCUSSION

At the time of entering into the Agreement with the Contractor to begin work on the Project, neither the actual construction cost for the Project nor the proposed guaranteed maximum price ("GMP") for the construction of the Project had been determined. However, it is anticipated that the actual construction cost and a GMP shall be determined and Project construction commenced on the Project prior to the next ROPS period for the Successor Agency, ROPS 15-16B period, which begins in January 2016.

The Contractor is concluding the Design Development phase of the Project. Following completion of this phase, the actual preparation of construction documents will commence. Once construction documents are completed and necessary building permits have been obtained, the Contractor will obtain construction bids on the open market and prepare a GMP based on the lowest responsible bids for approval consideration.

The Locust Street Conditional Bond Funding Agreement establishes the terms and conditions by which, subject to the approval of a GMP and agreement from the City to fund any amounts in excess of the Bond Proceeds, Bond Proceeds may be spent for the construction of the Project. The Bond Proceeds shall be monitored by the City and placed in a segregated Project account created solely for the partial payment of construction costs and completion of the Project in conformance with the terms of the Funding Agreement and the GMP construction agreement with the Contractor.

FINANCIAL/FUNDING ISSUES AND SOURCES:

Funding sources for the Locust Street Senior Center project from the Successor Agency will come from the Twenty Million Dollars (\$20,000,000) of Series 2007A-1 tax-exempt bond proceeds.

DESCRIPTION OF ANY ATTACHMENTS:

Attachment No. 1: Contract Agreement

Attachment No. 2: Proposed Resolution

APPROVAL VERIFICATION SHEET

Prepared and Presented By Harjinder Singh, Finance Supervisor
 Gordon Anderson, Consultant and Project Manager
 Margarita Cruz, Oversight Board Member

Reviewed and Approved by Royce Jones, Legal Counsel to the Successor Agency.

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WHEREAS, Assembly Bill x1 26 ("AB 26") and AB x 27 ("AB 27") were passed by the State Legislature on June 15, 2011, and signed by the Governor on June 28, 2011, and

WHEREAS, Health and Safety Code section 34173(a) designates successor agencies as successor entities to former redevelopment agencies; and

Page 1 of 6

1 **WHEREAS**, the California Supreme Court in California Redevelopment
2 Association v. Matosantos, Case No. S194861 upheld the constitutionality of AB 26 and
3 found AB 27 to be unconstitutional;

4 **WHEREAS**, AB 26 requires that there shall be an oversight board ("Oversight
5 Board) established for each of the former California redevelopment agency's successor
6 agencies to supervise the activities of the Successor Agency and the wind down of the
7 dissolved Redevelopment Agency's affairs pursuant to AB 26; and

8
9 **WHEREAS**, upon satisfaction of the conditions in AB 26, specifically, Health &
10 Safety Code section 34179.7, the Successor Agency received its finding of completion
11 on December 29, 2014; and

12
13 **WHEREAS**, in furtherance of Health & Safety Code section 34191.4(c)(1), the
14 bond proceeds derived from the former Inglewood Redevelopment Agency bonds
15 issued before December 31, 2010 shall be used by the Successor Agency for the
16 purposes for which the bonds were sold and the Successor Agency desires to expend
17 available bond proceeds to partially fund the construction of the Locust Street Senior
18 Center located at 111 North Locust Street; and

19
20 **WHEREAS**, the SUCCESSOR AGENCY received its finding of completion on
21 December 29, 2014 from the California Department of Finance and, pursuant to
22 California Health & Safety Code section 34191.4(c), desires to expend Twenty Million
23 Dollars (\$20,000,000) of bond proceeds for certain public improvements purposes as
24 more particularly set forth in that certain the Series 2007A-1 bond issuance of the
25 former Inglewood Redevelopment Agency (the "BOND PROCEEDS").
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1 **WHEREAS**, at all relevant times prior to receipt of its finding of completion
2 under AB X1 26, the BOND PROCEEDS were allocated and purposed to be
3 expended for the construction of the Locust Street Senior Center project located at
4 111 N. Locust Street, Inglewood, California 90301 (the "PROJECT"). However, at the
5 time of entering into the AGREEMENT, neither the actual construction cost for the
6 PROJECT nor the proposed guaranteed maximum price construction contract (the
7 "CONSTRUCTION CONTRACT") for the construction of the PROJECT has been
8 determined or procured, respectively. However, it is anticipated that the actual
9 construction cost shall be determined and the CONSTRUCTION CONTRACT entered
10 into by the parties prior to the submittal of the next recognized obligation payment
11 schedule for the SUCCESSOR AGENCY.
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13
14 **WHEREAS**, following a review of responses to a request for proposals by the
15 SUCCESSOR AGENCY and the CITY for the design-build of the PROJECT, the
16 calculation of the construction costs were reported to likely exceed the amount of the
17 BOND PROCEEDS. More specifically, the CONTRACTOR following the award of the
18 design-build agreement for the PROJECT also calculates that the actual construction
19 costs for the PROJECT will now exceed the amount of the BOND PROCEEDS by an
20 additional Eleven and One Half Percent (11.5%) or so (the "CONSTRUCTION
21 COSTS").
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23
24 **WHEREAS**, according to information presented to the SUCCESSOR AGENCY
25 at the time of entering into this AGREEMENT, the construction of the PROJECT is not
26 likely to proceed and total PROJECT funding be determined within the time frame
27 established for the submission of the recognized obligation payment schedule process
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1 for the January 1– June 30, 2016 funding cycle and distributions pursuant to AB X1 26
2 for said cycle; therefore, the SUCCESSOR AGENCY desires and proposes to enter
3 into this AGREEMENT, *a priori*, to commit, allocate, and secure the BOND
4 PROCEEDS for the PROJECT to assure the proper and timely implementation of the
5 construction of the PROJECT without the aforesaid incidental delays facing the
6 SUCCESSOR AGENCY under AB X1 26 funding cycles, subject to the complete
7 determination of the CONSTRUCTION COSTS as contained in a fully executed
8 CONSTRUCTION CONTRACT.
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10
11 **WHEREAS**, the BOND PROCEEDS alone are, as of the time of entering into
12 this AGREEMENT, insufficient to fully fund the CONSTRUCTION COSTS.

13 **WHEREAS**, the amount of the CONSTRUCTION COSTS in excess of the
14 BOND PROCEEDS, (i.e., all such amounts costs over Twenty Million Dollars
15 (\$20,000,000) (the "UNFUNDED OVERAGE"), shall be funded by the CITY and the
16 SUCCESSOR AGENCY shall not agree or remit and expend any of the BOND
17 PROCEEDS unless and until the entire amount of the UNFUNDED OVERAGE is
18 procured and provided for in the fully executed CONSTRUCTION CONTRACT in the
19 aggregate amount of the BOND PROCEEDS and UNFUNDED OVERAGE
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21 **WHEREAS**, the SUCCESSOR AGENCY desires to commit the BOND
22 PROCEEDS for expenditure to only partially fund the CONSTRUCTION COSTS so
23 long as the UNFUNDED OVERAGE is committed and provided by the CITY to
24 implement construction of the PROJECT in accordance with the fully executed
25 CONSTRUCTION CONTRACT inclusive of the full amount of the CONSTRUCTION
26 COSTS.
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1 **WHEREAS**, in conformance with California Health & Safety Code section
2 34191.4(c), the use of the BOND PROCEEDS for payment of the CONSTRUCTION
3 COSTS is consistent with the purposes of the 2007A-1 bond issuance of the former
4 Inglewood Redevelopment Agency.
5

6 **WHEREAS**, the SUCCESSOR AGENCY agrees to allocate and reserve the
7 BOND PROCEEDS and use them only for CONSTRUCTION COSTS for the
8 PROJECT so long as the UNFUNDED OVERAGE is secured and provided by the
9 CITY in the form of the CONSTRUCTION CONTRACT which shall; be fully executed
10 by the CITY, SUCCESSOR AGENCY, and CONTRACTOR.
11

12 **NOW, THEREFORE**, the Oversight Board Successor Agency to the Inglewood
13 Redevelopment Agency does hereby resolve as follows:
14

15 Section 1. The Recitals set forth above are true and correct and are
16 incorporated into the Resolution by this reference.
17

18 Section 2. The Oversight Board approves the conditional bond funding
19 agreement for the Locust Street Senior Center Project subject to the funding limitations
20 and restrictions set forth therein, and directs the authorized signatory of the Successor
21 Agency to negotiate, finalize, and execute the CONSTRUCTION CONTRACT for the
22 funding and development of the PROJECT in accordance with the requirements of the
23 AGREEMENT and the CONSTRUCTION CONTRACT.

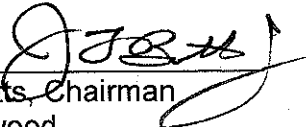
24 Section 3. The Oversight Board directs staff to submit copies of the Resolution
25 and its attachments to the State Department of Finance and the Controller's office for
26 tier review and approval.
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1 Section 4. The Oversight Board Secretary shall certify as to the
2 adoption of this Resolution.


3 Section 5. This Resolution shall take effect immediately upon adoption.

4 Section 6. The Secretary of the Oversight Board shall certify as to the adoption of
5 this Resolution.

6 **PASSED, APPROVED AND ADOPTED** by the Oversight Board to the
7 Successor Agency of the former Inglewood Redevelopment Agency, at a regularly
8 scheduled public meeting held this 28th day of SEPT, 2015.

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11 
12 James T. Butts, Chairman
13 City of Inglewood
14 Former Redevelopment Agency
Oversight Board

15 ATTEST:

16
17 
18 Olga J. Castañeda, Deputy Clerk
19 County of Los Angeles, Board of Supervisors
20 Acting as Secretary to the City of Inglewood
Former Redevelopment Agency Oversight Board

1 **LOCUST STREET SENIOR CENTER CONDITIONAL BOND FUNDING**
2 **AGREEMENT**

3 **[Series 2007A-1 former Inglewood Redevelopment Agency Bridge Financing]**

4 **SUCCESSOR AGENCY OF THE**
5 **FORMER INGLEWOOD REDEVELOPMENT AGENCY**

6 **AGREEMENT NO. 15-____**

7 **THIS LOCUST STREET SENIOR CENTER CONDITONAL BOND**
8 **FUNDING AGREEMENT ("AGREEMENT")** is made and entered into this
9 _____ day of _____, 2015 (the "Effective Date"), by and among the
10 **City of Inglewood as the Successor Agency of the former Inglewood**
11 **Redevelopment Agency**, a public entity created under Part 1.85 of Assembly Bill No.
12 26 (1st Ex. Sess.), as amended ("AB X1 26") and set forth in California Health & Safety
13 Code sections 34170 through 34191 ("SUCCESSOR AGENCY"), **Pinner**
14 **Construction Co., Inc.**, a California corporation, with its principal place of business
15 located at 1255 South Lewis Street, Anaheim, California 92805 ("CONTRACTOR"),
16 and the **City of Inglewood**, a municipal corporation ("CITY").

17 **RECITALS**

18 **WHEREAS**, the SUCCESSOR AGENCY received its finding of completion on
19 December 29, 2014 from the California Department of Finance and, pursuant to
20 California Health & Safety Code section 34191.4(c), desires to expend Twenty Million
21 Dollars (\$20,000,000) of bond proceeds for certain public improvements purposes as
22 more particularly set forth in that certain the Series 2007A-1 bond issuance of the
23 former Inglewood Redevelopment Agency (the "BOND PROCEEDS").

24 **WHEREAS**, at all relevant times prior to receipt of its finding of completion
25 under AB X1 26, the BOND PROCEEDS were allocated and purposed to be expended
26 for the construction of the Locust Street Senior Center project located at 111 N. Locust
27 Street, Inglewood, California 90301 (the "PROJECT"). However, at the time of
28

1 entering into this AGREEMENT, the actual construction cost for the PROJECT nor the
2 proposed guaranteed maximum price construction contract (the "CONSTRUCTION
3 CONTRACT") for the construction of the PROJECT has been determined or procured,
4 respectively. However, it is anticipated that the actual construction cost shall be
5 determined and the CONSTRUCTION CONTRACT procured prior to the next
6 recognized obligation payment schedule for the SUCCESSOR AGENCY.

7 **WHEREAS**, following a review of responses to a request for proposals by the
8 SUCCESSOR AGENCY and the CITY for the design-build of the PROJECT, the
9 calculation of the construction costs were reported to likely exceed the amount of the
10 BOND PROCEEDS. More specifically, the CONTRACTOR following the award of
11 the design-build agreement for the PROJECT also calculates that the actual
12 construction costs for the PROJECT will now exceed the amount of the BOND
13 PROCEEDS by an additional Eleven and One Half Percent (11.5%) or so (the
14 "CONSTRUCTION COSTS").

15 **WHEREAS**, according to information presented to the SUCCESSOR AGENCY
16 at the time of entering into this AGREEMENT, the construction of the PROJECT is not
17 likely to proceed within the time frame established for the submission of the recognized
18 obligation payment schedule process for the January 1– June 30, 2015 funding cycle
19 and tax increment distributions pursuant to AB X1 26 for said cycle; therefore, it was
20 proposed that the SUCCESSOR AGENCY enter into this AGREEMENT, *a priori*, to
21 commit, allocate, and secure the BOND PROCEEDS for the PROJECT to assure the
22 proper and timely implementation of the construction of the PROJECT without the
23 aforesaid incidental delays facing the SUCCESSOR AGENCY under AB X1 26
24 funding cycles.

25 **WHEREAS**, the BOND PROCEEDS are, as of the time of entering into this
26 AGREEMENT, insufficient to fully fund the CONSTRUCTION COSTS.

27 **WHEREAS**, the amount of the CONSTRUCTION COSTS in excess of the
28 BOND PROCEEDS, (i.e., all such amounts costs over Twenty Million Dollars

1 (\$20,000,000) (the "UNFUNDED OVERAGE"), shall be funded by the CITY.
2 However, the SUCCESSOR AGENCY does not presently agree to remit and expend
3 any of the BOND PROCEEDS unless and until the entire amount of the UNFUNDED
4 OVERAGE is procured and the CONSTRUCTION CONTRACT in the amount of the
5 BOND PROCEEDS and UNFUNDED OVERAGE is executed by the CITY and
6 CONTRACTOR.

7 **WHEREAS**, the SUCCESSOR AGENCY desires to commit the BOND
8 PROCEEDS for expenditure to only partially fund the CONSTRUCTION COSTS so
9 long as the UNFUNDED OVERAGE is committed and provided by the CITY to
10 implement construction of the PROJECT in accordance with the fully executed
11 CONSTRUCTION CONTRACT inclusive of the full amount of the CONSTRUCTION
12 COSTS by and among the CITY, SUCCESSOR AGENCY, and CONTRACTOR.

13 **WHEREAS**, in conformance with California Health & Safety Code section
14 34191.4(c), the use of the BOND PROCEEDS for payment of the CONSTRUCTION
15 COSTS is consistent with the purposes of the 2007A-1 bond issuance of the former
16 Inglewood Redevelopment Agency.

17 **WHEREAS**, the CONTRACTOR holds itself out as being capable and
18 competent to perform the construction the PROJECT under the funding constraints
19 presented herein (i.e. subject to procurement of the UNFUNDED OVERAGE by the
20 CITY and pursuant to the terms and conditions of the CONSTRUCTION CONTRACT.

21 **WHEREAS**, the SUCCESSOR AGENCY agrees to allocate and reserve the
22 BOND PROCEEDS and use them only for CONSTRUCTION COSTS for the
23 PROJECT so long as the UNFUNDED OVERAGE is secured and provided by the
24 CITY and the CONSTRUCTION CONTRACT is procured to the satisfaction of the
25 CITY, SUCCESSOR AGENCY, and CONTRACTOR.

26 **WHEREAS**, at the time the UNFUNDED OVERAGE is secured for the
27 CONSTRUCTION COSTS and the CONSTRUCTION CONTRACT fully executed, the
28 SUCCESSOR AGENCY agrees to make available for expenditure the BOND

1 PROCEEDS to the CITY for use with the UNFUNDED OVERAGE for payment of the
2 CONSTRUCTION COSTS for completion of the PROJECT.

3 **WHEREAS**, the CONTRACTOR agrees and acknowledges that it has
4 investigated and researched all matters and conditions pertinent to and affecting the
5 performance of the construction of the PROJECT and agrees to enter into this
6 AGREEMENT with the express understanding this AGREEMENT is not the
7 CONSTRUCTION CONTRACT and the UNFUNDED OVERAGE is not yet secured.

8 **NOW THEREFORE**, the CITY, SUCCESSOR AGENCY and
9 CONTRACTOR (collectively referred to as the "PARTIES") agree as follows:

11 **ARTICLE 1 – BOND PROCEEDS FUNDING**

12 The BOND PROCEEDS shall be conditionally funded by the SUCCESSOR
13 AGENCY for the PROJECT when and only when the SUCCESSOR AGENCY
14 receives notice from the CITY that both the CONSTRUCTION CONTRACT has been
15 executed and the CITY has fully committed the UNFUNDED OVERAGE or an
16 irrevocable commitment or any number of irrevocable commitments for the
17 UNFUNDED OVERAGE to fully fund the CONSTRUCTION COSTS pursuant to the
18 CONSTRUCTION CONTRACT (the "NOTICE"). Upon receipt of the NOTICE, the
19 SUCCESSOR AGENCY shall remit to the CITY the BOND PROCEEDS on the sole
20 condition the BOND PROCEEDS are used by the CITY and CONTRACTOR for
21 payment of the CONSTRUCTION COSTS and completion of the PROJECT pursuant
22 to the CONSTRUCTION CONTRACT.

24 **ARTICLE 2.1– SUCCESSOR AGENCY’S RESPONSIBILITIES**

25 The SUCCESSOR AGENCY shall review and negotiate the CONSTRUCTION
26 CONTRACT with the CITY and CONTRACTOR when and as requested and, if
27 necessary, cooperate with the CITY for the procurement of the UNFUNDED
28 OVERAGE; pursuant to which, the SUCCESSOR AGENCY shall, upon receipt of the

1 NOTICE from the CITY, deliver the BOND PROCEEDS to the CITY for placement by
2 the CITY into a segregated CITY-account created solely for the payment of the
3 CONSTRUCTION COSTS and completion of the PROJECT in conformance with the
4 terms of this AGREEMENT and the CONSTRUCTION CONTRACT.

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6 **ARTICLE 2.2– CONTRACTOR’S RESPONSIBILITIES**

7 On or about the time of entering into this AGREEMENT, the CONTRACTOR
8 shall diligently negotiate and, when appropriate, enter into CONSTRUCTION
9 CONTRACT with the CITY and SUCCESSOR AGENCY for completion of the
10 PROJECT in the amount of the CONSTRUCTION COSTS; including, but not limited
11 to, cooperating with the CITY and satisfying any and all requirements of the CITY
12 necessary for it to obtain the requisite funding commitment(s) to secure the
13 UNFUNDED OVERAGE and cause the issuance of the NOTICE to the SUCCESSOR
14 AGENCY. Upon issuance of the NOTICE, and pursuant to the terms and conditions of
15 the CONSTRUCTION CONTRACT, the CONTRACTOR agrees to diligently perform
16 all work necessary to implement the CONSTRUCTION CONTRACT for completion
17 of the PROJECT to the satisfaction of the CITY and the SUCCESSOR AGENCY.

18
19 **ARTICLE 2.3– CITY’S RESPONSIBILITIES**

20 The CITY shall review and negotiate the CONSTRUCTION CONTRACT with
21 the SUCCESSOR AGENCY and CONTRACTOR when and as requested and procure
22 the UNFUNDED OVERAGE or necessary irrevocable commitments to procure the
23 UNFUNDED OVERAGE to assure proper contractual compliance with and of the
24 CONSTRUCTION CONTRACT. The CITY shall issue the NOTICE if and only if the
25 CITY has obtained, to its satisfaction, the UNFUNDED OVERAGE and received a
26 fully-executed CONSTRUCTION CONTRACT for completion of the PROJECT from
27 the CONTRACTOR. The CITY further agrees to place the BOND PROCEEDS in a
28 segregated PROJECT account created solely for the payment of the CONSTRUCTION

1 COSTS and completion of the PROJECT in conformance with the terms of this
2 AGREEMENT and the CONSTRUCTION CONTRACT.

4 **ARTICLE 3 – TERM AND TERMINATION**

5 Term. The term of this AGREEMENT shall consist of the earlier of the
6 expiration of one (1) year following the Effective Date of this AGREEMENT, or until
7 such time as the SUCCESSOR AGENCY provides the BOND PROCEEDS to the
8 CITY for expenditure on the PROJECT consistent with the terms and conditions of the
9 CONSTRUCTION CONTRACT.

10 Termination. The SUCCESSOR AGENCY may terminate this AGREEMENT,
11 in its sole own discretion, or when conditions involving the funding required for the
12 construction of the PROJECT make it impossible to proceed, or if the SUCCESSOR
13 AGENCY is prevented from proceeding with this AGREEMENT by law, or by official
14 action of any public authority having jurisdiction over the SUCCESSOR AGENCY
15 and/or the BOND PROCEEDS. The SUCCESSOR AGENCY shall provide five (5)
16 days written notice of termination to the CITY and the CONTRACTOR, unless a
17 shorter notice time is reasonable or necessary.

19 **ARTICLE 4 – BOND PROCEEDS**

20 The BOND PROCEEDS to be provided to the CITY for the completion of the
21 PROJECT, shall not exceed the sum of TWENTY MILLION DOLLARS
22 (\$20,000,000) and may be wired, in one or several wires, upon receipt by the
23 SUCCESSOR AGENCY of the NOTICE from the CITY for placement of the BOND
24 PROCEEDS in a segregated PROJECT-account for partial payment of the
25 CONSTRUCTION COSTS pursuant to the CONSTRUCTION CONTRACT.

26 No charges shall be incurred by the SUCCESSOR AGENCY under this
27 AGREEMENT nor shall any payments become due and payable to the CONTRACTOR
28 until the services for the PROJECT have been performed and all related invoices for

1 such services have been received from the CONTRACTOR and approved by the CITY
2 in accordance with the CONSTRUCTION CONTRACT. SUCCESSOR AGENCY
3 may prohibit, withhold, or cause the retraction of any or all funding under this
4 AGREEMENT in any instance in which the SUCCESSOR AGENCY, in its sole
5 discretion, determines that CONTRACTOR has failed or refused to satisfy any material
6 obligation under this AGREEMENT or use of the BOND PROCEEDS is not permitted
7 under the terms of the bond issuance for the Series 2007A-1 bonds of the former
8 Inglewood Redevelopment Agency.

9 CONTRACTOR agrees that any work performed outside of the scope of this
10 AGREEMENT without the prior written approval of the SUCCESSOR AGENCY and
11 CITY shall be deemed gratuitous on the part of the CONTRACTOR and
12 CONTRACTOR shall neither be reimbursed nor have any recognizable claim for
13 payment or reimbursement against the SUCCESSOR AGENCY or the CITY.

14 Following receipt of the NOTICE and remittance of the BOND PROCEEDS as
15 conditional funding under this AGREEMENT, all invoices submitted by the
16 CONTRACTOR for payment by the CITY with BOND PROCEEDS shall include: (1)
17 date of invoice; (2) sequential invoice number; (3) SUCCESSOR AGENCY Agreement
18 number to be assigned by the Secretary of the SUCCESSOR AGENCY upon approval
19 of this AGREEMENT; (4) CITY agreement number to be assigned for the guaranteed
20 maximum price agreement negotiated between the CITY and the CONTRACTOR;
21 (5) total amount payable; (6) total invoice amount; (7) description of services provided
22 and any reimbursable expenses; (8) CONTRACTOR'S employee(s) name providing
23 service; (9) total billed for construction of the PROJECT to date; and (10) total amount
24 remaining on the guaranteed maximum price construction contract.

25 CONTRACTOR shall be responsible for the cost of supplying all documentation
26 necessary to verify amounts invoiced and requested for payment to the satisfaction of
27 the CITY and SUCCESSOR AGENCY, and shall certify on each invoice that it is
28 entitled to the amount invoiced.

1 No compensation will be paid for any other task, service or expense not
2 specifically authorized by this AGREEMENT without the prior written approval of the
3 SUCCESSOR AGENCY, which approval shall be at its sole discretion.

4 CONTRACTOR shall not charge and the CITY shall not pay any finance
5 charges and/or late fees on any overdue invoices with the BOND PROCEEDS.
6

7 **ARTICLE 5 – CONTRACT ADMINISTRATION**

8 SUCCESSOR AGENCY

9 Unless otherwise designated in writing, the Executive Director of the
10 SUCCESSOR AGENCY shall serve as the SUCCESSOR AGENCY'S representative
11 for the administration of this AGREEMENT.

12 CONTRACTOR

13 Unless otherwise designated in writing, John Pinner, Chief Executive Officer,
14 shall serve as the CONTRACTOR'S project manager for this AGREEMENT.

15 The CONTRACTOR represents that it has or will secure at its own expense all
16 personnel required to perform the services necessary to (i) complete the construction of
17 the PROJECT; (ii) assure there are no unapproved changes to the PROJECT; and (iii)
18 confirm that the CONSTRUCTION CONTRACT will not cause the use of the BOND
19 PROCEEDS to be expended in a fashion that does not comply with the Series 2007A-1
20 bond issuance of the former Inglewood Redevelopment Agency.

21 CITY

22 Unless otherwise designated in writing, the City Manager of the CITY shall
23 serve as the CITY'S representative for the administration of this AGREEMENT.
24

25 **ARTICLE 6 – SUCCESSOR AGENCY'S RESERVATION OF RIGHTS**

26 The SUCCESSOR AGENCY reserves the right to do the following:

27 1. Enter into agreements with third parties for auditing of the books and
28 records of the CONTRACTOR to assure the BOND PROCEEDS are used only for

1 purposes for which the 2007A-1 bonds were issued by the former Inglewood
2 Redevelopment Agency.

3 2. Transmit the BOND PROCEEDS in such amounts and in such frequency
4 necessary to reach the amount of Twenty Million Dollars (\$20,000,000) when and only
5 when the SUCCESSOR AGENCY receives the NOTICE.

7 **ARTICLE 7 – NOTICES**

8 Any notice given by the PARTIES pursuant to this AGREEMENT shall be
9 deemed received and effective on the date personally delivered, or if mailed, five (5)
10 days after deposit of the same in the custody of the U.S. Postal Service, when properly
11 addressed, posted and deposited in the U.S. mail addressed to the respective parties as
12 follows:

13 14 **SUCCESSOR AGENCY:**

15 **One Manchester Boulevard, Ninth Floor**
16 **Inglewood, CA 90301**
17 **ATTN: Executive Director**

18 19 **With a copy to:**

20 **Kenneth Campos, Esq.**
21 **Successor Agency General Counsel**
22 **One Manchester Boulevard Eighth Floor**
23 **Inglewood, CA 90301**

24 25 **With a copy to:**

26 **Royce K. Jones, Esq.**
27 **Kane Ballmer & Berkman**
28 **Successor Agency Special Counsel**

**515 S. Figueroa Street, Suite 780
Los Angeles. CA 90071**

CONTRACTOR:

**1255 South Lewis Street
Anaheim, CA 92805**

ATTN: Chief Executive Officer

CITY:

**One Manchester Boulevard Ninth Floor
Inglewood, CA 90301
ATTN: City Manager**

With a copy to:

**Kenneth Campos, Esq.
City Attorney
One Manchester Boulevard Eighth Floor
Inglewood, CA 90301**

With a copies to:

**Royce K. Jones, Esq.
Kane Ballmer & Berkman
City Special Counsel
515 S. Figueroa Street, Suite 780
Los Angeles. CA 90071

John Dacey, Esq.
Bergman Dacey Goldsmith**

1 **City Special Counsel**
2 **10880 Wilshire Boulevard, Suite 900**
3 **Los Angeles. CA 90024**
4

5 **ARTICLE 8 – INSURANCE**

6 **Required Insurance Coverages**

7 CONTRACTOR shall obtain and maintain at its expense, until completion of
8 performance of the PROJECT and acceptance by the SUCCESSOR AGENCY, the
9 following insurance issued by an insurance company currently authorized by the
10 Insurance Commissioner to transact the business of insurance in the State of California
11 and having a rating of or equivalent to A:VIII by A.M. Best Company and have the
12 SUCCESSOR AGENCY named as an “Additional Insured” on all such insurance
13 policies:

14 **Commercial General Liability:**

15 Commercial General Liability (equivalent in coverage scope to Insurance Services
16 Office, Inc. (ISO) form CG 00 01 11 85 or 11 88) in an amount not less than
17 \$1,500,000.00 per occurrence and \$3,000,000.00 general aggregate. Such insurance shall
18 include products and completed operations liability, independent contractor’s liability,
19 broad form contractual liability, and cross liability protection. The “SUCCESSOR
20 AGENCY”, its officials, employees, and agents” must be separately endorsed to the
21 policy as additional insureds on an endorsement equivalent to insurance Services Office,
22 Inc. (ISO) forms CG 20 10 11 85 of CG 20 26 11 85.

23 **Automobile Liability:**

24 Automobile Liability (equivalent in coverage scope to ISO form CA 00 01 060 92)
25 in an amount not less than \$1,500,000 combined single limit per accident for bodily
26 injury and property damage covering Auto Symbol 1 (Any Auto). If an automobile is not
27
28

1 used in connection with the services provided by the CONTRACTOR, the
2 CONTRACTOR should provide a written request for a waiver of this requirement.

3 **Workers' Compensation and Employer's Liability:**

4 Worker's Compensation as required by the California Labor Code and Employer's
5 Liability in an amount not less than \$1,000,000 per accident.

6
7 **Errors and Omissions Insurance:**

8 Professional liability and/or errors and omissions liability insurance in an amount
9 not less than \$1,500,000.00 per claim and \$3,000,000.00 general aggregate.

10
11 **Builders Risk Insurance:**

12 Builder's Risk insurance in such an amount as to cover the Project, materials,
13 goods, equipment, and cost of all improvements to be made to and/or constructed on the
14 real property, in a form and content acceptable to the SUCCESSOR AGENCY.
15 Coverage to be effective before any materials are delivered to the job site for
16 Construction Services and coverage to terminate upon acceptance of the Project. The
17 policy value/limit will be in an amount equal to one hundred percent of the cost of
18 construction as established in the CONSTRUCTION CONTRACT.

19 **Required Insurance Documentation:**

20 **Certificate of Insurance:**

21 The CONTRACTOR must provide a Certificate of Insurance evidencing the
22 required insurance set forth above. The Certificate Holder must be the SUCCESSOR
23 AGENCY and the Certificate Holder's address must be the address of the SUCCESSOR
24 AGENCY.

25 **Endorsements:**

26 In addition to the Certificate of Insurance, the CONTRACTOR must provide the
27 following endorsements:
28

1 **Cancellation Notice Endorsements:**

2 Each policy must be endorsed to provide that the policy shall not be cancelled or
3 non-renewed by either party or reduced in coverage or limits (except by paid claims)
4 unless the insurer has provided the SUCCESSOR AGENCY with written notice thirty
5 (30) days prior to cancellation or ten (10) days written notice for cancellation due to
6 nonpayment of premium; and
7

8 **Primary and Non-contributory Coverage Endorsements:**

9 The general liability and (if required) professional liability policies must be
10 endorsed to provide that each policy shall apply on a primary and non-contributing basis
11 in relation to any insurance or self-insurance, primary or excess, maintained by or
12 available to the SUCCESSOR AGENCY, or its officials, employees and agents.
13
14

15 **Waiver or Modification of the Insurance Requirements:**

16 Any waiver or modification of the insurance requirements can only be made by
17 the Attorney for the SUCCESSOR AGENCY. All waiver or modification requests are
18 reviewed on a case-by-case basis.
19
20

21 **Verification of Coverage Prior to Commencement of Services:**

22 CONTRACTOR shall furnish the SUCCESSOR AGENCY with original
23 certificates and amendatory endorsements affecting coverage required by this
24 AGREEMENT. The endorsements should be on forms provided by the SUCCESSOR
25 AGENCY or forms other than the SUCCESSOR AGENCY'S forms, provided those
26 endorsements or policies conform to the SUCCESSOR AGENCY'S requirements. All
27 certificates and endorsements are to be received and approved by the SUCCESSOR
28 AGENCY before any construction work commences under this AGREEMENT. The

1 SUCCESSOR AGENCY reserves the right to require complete, certified copies of all
2 required insurance policies, including endorsements affecting the coverage required by
3 these specifications at any time.

4 5 **ARTICLE 9 – INDEPENDENT CONTRACTOR**

6 CONTRACTOR enters into this AGREEMENT as an independent contractor
7 and not as an employee of the SUCCESSOR AGENCY. CONTRACTOR shall have
8 no power or authority by this AGREEMENT to bind the SUCCESSOR AGENCY in
9 any respect. Nothing in this AGREEMENT shall be deemed or construed to be
10 inconsistent with this independent contractor relationship or status. All employees,
11 agents, contractors or subcontractors hired or retained by the CONTRACTOR are
12 employees, agents, contractors or subcontractors of the CONTRACTOR, and not the
13 SUCCESSOR AGENCY. The SUCCESSOR AGENCY is not obligated in any way to
14 pay any wage claims or other claims made against the CONTRACTOR by any such
15 employee, agent, contractor or subcontractor, or by any other person resulting from the
16 performance of any work with regard to the capital improvements required by this
17 AGREEMENT for the PROJECT.

18 19 **ARTICLE 10 – INDEMNIFICATION**

20 To the fullest extent permitted by law, CONTRACTOR shall indemnify, defend,
21 protect and hold harmless the SUCCESSOR AGENCY, CITY and their respective
22 board members, officials, officers, contractors, agents, employees and volunteers
23 (collectively “Indemnitees”) from and against any loss, injury, damage, claim, lawsuit,
24 expense, attorneys’ fees, or any other cost arising out of or in any way related to the
25 performance of any services pursuant to this AGREEMENT, to the extent caused in
26 whole or in part by the negligent act or omission, recklessness or willful misconduct of
27 the CONTRACTOR, any subcontractor, anyone directly or indirectly employed by any
28

1 of them or anyone for whose acts any of them may be liable, except where caused by
2 the sole negligence or willful misconduct of the SUCCESSOR AGENCY.

3 If any action or proceeding is brought against the Indemnitees by reason of any
4 of the matters against which CONTRACTOR has agreed to indemnify Indemnitees as
5 provided above, CONTRACTOR, upon notice from the SUCCESSOR AGENCY, shall
6 defend the Indemnitees at CONTRACTOR'S sole expense by counsel acceptable to the
7 SUCCESSOR AGENCY. Such acceptance shall not be unreasonably withheld.
8 Indemnitees need not have first paid for any of the matters to which Indemnitees are
9 entitled to indemnification in order to be so indemnified. The insurance required to be
10 maintained by CONTRACTOR under this AGREEMENT shall ensure
11 CONTRACTOR'S obligations under this Article, but the limits of such insurance shall
12 not limit the liability of the CONTRACTOR hereunder. The provisions of this Article
13 shall survive the expiration or earlier termination of this AGREEMENT.

14
15 **ARTICLE 11 – CONTRACTOR NONASSIGNABILITY/SUCCESSOR**
16 **AGENCY ASSIGNABILITY**

17 The expertise and experience of the CONTRACTOR are material considerations
18 of this AGREEMENT. The SUCCESSOR AGENCY has an interest in the
19 qualifications and capabilities of the CONTRACTOR which is required to fulfill the
20 duties and obligations imposed under this AGREEMENT. In recognition of that
21 interest, the CONTRACTOR shall not assign or transfer this AGREEMENT, or any
22 portion of this AGREEMENT, or the performance of any of the CONTRACTOR'S
23 duties or obligations under this AGREEMENT without the prior written consent of the
24 SUCCESSOR AGENCY, which consent shall be at the sole discretion of the
25 SUCCESSOR AGENCY. Any unauthorized assignment shall be ineffective, null and
26 void, and shall constitute a material breach of this AGREEMENT entitling the
27 SUCCESSOR AGENCY to any and all remedies at law or equity, including summary
28 termination of this AGREEMENT. The CONTRACTOR shall not assign any interest

1 in this AGREEMENT and shall not transfer any interest in the same whether by
2 assignment or novation, without prior written approval of the SUCCESSOR AGENCY,
3 which consent shall be at the sole discretion of the SUCCESSOR AGENCY.

4 However, notwithstanding anything contained in this AGREEMENT to the
5 contrary, SUCCESSOR AGENCY shall have the right to assign this AGREEMENT to
6 the CITY upon written notice to CONTRACTOR. Upon receipt of such notice
7 CONTRACTOR shall perform the work necessary to complete the PROJECT on the
8 behalf of the CITY and the City Manager shall be deemed the CITY'S representative
9 for purposes of administering this AGREEMENT.

11 **ARTICLE 12 – RECORDS AND AUDIT**

12 CONTRACTOR shall maintain copies of all data, information, documents,
13 timesheets, invoices and other materials of work attributable to the performance of the
14 work necessary to complete the PROJECT in connection with this AGREEMENT and
15 the CONSTRUCTION CONTRACT. The SUCCESSOR AGENCY shall have access
16 to and the right to examine, audit, copy or transcribe any pertinent document,
17 transaction, activity, or record relating to this AGREEMENT. CONTRACTOR shall
18 cooperate and comply with all requests of SUCCESSOR AGENCY'S auditors with
19 regard to access and review of all records necessary to conduct audits in compliance
20 with this AGREEMENT and any applicable requirements. SUCCESSOR AGENCY
21 auditors shall be allowed to interview any employee of CONTRACTOR and its
22 subcontractors throughout the term of this AGREEMENT and for a period of two (2)
23 years after termination of this AGREEMENT or any longer period if required by law.

24 All materials, including all pertinent financial records and proprietary data, shall
25 be stored and maintained by CONTRACTOR at its main facility. Originals and/or
26 copies of such documents or records shall be provided, at CONTRACTOR'S expense,
27 directly to the SUCCESSOR AGENCY.

1 Access to such documents and records shall be granted to the SUCCESSOR
2 AGENCY, as well as its successors-in-interest and designated representatives.

3
4 **ARTICLE 13 – OWNERSHIP OF DOCUMENTS**

5 The SUCCESSOR AGENCY shall own all data, information, documents and
6 other work product of the CONTRACTOR prepared, assembled or maintained in
7 connection with this AGREEMENT. The SUCCESSOR AGENCY shall have the sole
8 right to use such materials within its discretion and without further compensation to the
9 CONTRACTOR. The CONTRACTOR shall at its sole expense provide all such
10 documents or work product to the SUCCESSOR AGENCY upon written request.

11 CONTRACTOR shall assist the SUCCESSOR AGENCY in timely responding
12 to requests made under the California Public Records Act to inspect any of the above
13 described items under CONTRACTOR’S possession or control. The SUCCESSOR
14 AGENCY shall make an independent determination as to the confidentiality of these
15 documents to the extent permitted by law.

16
17 **ARTICLE 14 – NONDISCRIMINATION**

18 California Labor Code section 1735

19 No discrimination shall be made in the employment of persons working on
20 behalf of or as an agent for the SUCCESSOR AGENCY because of the race, religious
21 creed, color, national origin, ancestry, physical or mental disability, medical condition,
22 genetic information, marital status, sex, gender, gender identity, gender expression, age,
23 sexual orientation, military and veteran status of any person, or any other cognizable
24 group protected by law, except as provided in section 12940 of the Government Code.
25 Every contractor for the SUCCESSOR AGENCY violating Labor Code section 1735 is
26 subject to all the penalties imposed for a violation of this law.

27 ///

28 ///

1 **ARTICLE 15 – AMENDMENTS, CHANGES OR MODIFICATIONS**

2 No amendments, changes or modifications to this AGREEMENT shall be
3 effective unless in writing and signed by authorized representatives of the Parties
4 hereto.

5
6 **ARTICLE 16 – CHOICE OF LAW AND VENUE**

7 This AGREEMENT shall be interpreted, construed and governed according to
8 the laws of the State of California. In the event of litigation between the Parties, venue
9 in state trial courts shall lie exclusively in the County of Los Angeles, Superior Court,
10 Southwest District, located at 825 Maple Avenue, Torrance, California, 90503-5058. In
11 the event of litigation in the United States District Court, venue shall lie exclusively in
12 the Central District of California, in Los Angeles.

13
14 **ARTICLE 17 – WAIVER OF BREACH OR DEFAULT**

15 Waiver of a breach or default of any term, condition or covenant under this
16 AGREEMENT shall not constitute a continuing waiver thereof, nor shall it constitute a
17 waiver of any other term, condition or covenant. Acceptance by the SUCCESSOR
18 AGENCY of any work or services performed required to complete the PROJECT by
19 the CONTRACTOR shall not constitute a waiver of the SUCCESSOR AGENCY'S
20 right to seek correction for any breach or default under this AGREEMENT.

21
22 **ARTICLE 18 – SEVERABILITY**

23 In the event that any term, condition or covenant herein is held to be invalid or
24 void by any court of competent jurisdiction, the same shall be deemed severable from
25 the remainder of the AGREEMENT and shall in no way affect any other term,
26 condition or covenant contained herein so long as its severance does not render this
27 AGREEMENT meaningless with regard to a material term, in which event the entire
28 AGREEMENT shall be void. If such term, condition, covenant or other provision shall

1 be deemed invalid due to its scope of breadth, such provision shall be deemed valid to
2 the extent of the scope of breadth permitted by law.

3 4 **ARTICLE 19 – TITLES AND CAPTIONS**

5 Article titles, paragraph titles, or captions contained herein are inserted as a
6 matter of convenience and for reference, and in no way define, limit, extend, or
7 describe the scope of this AGREEMENT or any provision hereof.

8 9 **ARTICLE 20 – WAIVER OF PRINCIPLE OF CONTRA** 10 **PROFERENTUM**

11 The Parties waive any benefit from the principle of *contra proferentum* and
12 interpreting ambiguities against the drafter. No party shall be deemed the drafter of this
13 AGREEMENT, or of any particular provision, and no part of this AGREEMENT shall
14 be construed against any party on the basis that the particular party is the drafter of this
15 AGREEMENT.

16 17 **ARTICLE 21 – COUNTERPARTS**

18 This AGREEMENT may be executed in counterparts, and when each party
19 hereto has signed and delivered at least one such counterpart, each counterpart shall be
20 deemed an original and, when taken together with the other signed counterparts, shall
21 constitute one agreement, which shall be binding and effective as to all Parties hereto.

22 23 **ARTICLE 22 – ENTIRE AGREEMENT**

24 This AGREEMENT and any agreement, document, exhibit, or instrument
25 referred to herein, integrate all the terms and conditions mentioned herein or incidental
26 hereto, and supersede all oral negotiations and prior writings with respect to the subject
27 of this AGREEMENT. The terms, conditions and covenants of this AGREEMENT
28 shall prevail over any other agreement, document or instrument regarding the

1 expenditure of BOND PROCEEDS. Furthermore, each party to this AGREEMENT
2 acknowledges that no representations, inducements, promises or agreements, oral or
3 otherwise, have been made by any party, or anyone acting on behalf of any party that
4 are not contained herein.

5 **IN WITNESS THEREOF**, the SUCCESSOR AGENCY, CITY and
6 CONTRACTOR, have executed this Agreement as of the date first written above.

7 **SUCCESSOR AGENCY:**


8
9 **City of Inglewood as Successor**
10 **Agency to the Inglewood**
11 **Redevelopment Agency**

12 By: _____
13 James T. Butts, Jr.
14 CHAIRPERSON

CONTRACTOR:

Pinner Construction

By:  CEO
Name/Title

By:  President
Name/Title

17 **ATTEST:**

18
19 By: _____
20 Yvonne Horton
21 AGENCY SECRETARY

APPROVED AS TO FORM:

By: _____
Kenneth Campos
GENERAL COUNSEL FOR
SUCCESSOR AGENCY

APPROVED:

KANE, BALLMER & BERKMAN

By: _____
Royce K. Jones
SPECIAL COUNSEL FOR
SUCCESSOR AGENCY

CITY:

City of Inglewood

By: _____
James T. Butts, Jr.
MAYOR

ATTEST:

By: _____
Yvonne Horton
CITY CLERK

APPROVED AS TO FORM:

By: _____
Kenneth Campos
CITY ATTORNEY

APPROVED:

By: _____
Royce K. Jones
KANE BALLMER &
BERKMAN
CITY SPECIAL COUNSEL